

REFERENCE TITLE: aggravated assault; strangulation and suffocation

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1021

Introduced by
Senator Waring

AN ACT

AMENDING SECTION 13-1204, ARIZONA REVISED STATUTES; RELATING TO ASSAULT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1204, Arizona Revised Statutes, is amended to
3 read:

4 13-1204. Aggravated assault; classification; definition

5 A. A person commits aggravated assault if the person commits assault
6 as defined in section 13-1203 under any of the following circumstances:

7 1. If the person causes serious physical injury to another.

8 2. If the person uses a deadly weapon or dangerous instrument.

9 3. If the person commits the assault after entering the private home
10 of another with the intent to commit the assault.

11 4. If the person is eighteen years of age or older and commits the
12 assault upon a child the age of fifteen years or under.

13 5. If the person commits the assault knowing or having reason to know
14 that the victim is a peace officer, or a person summoned and directed by the
15 officer while engaged in the execution of any official duties.

16 6. If the person knowingly takes or attempts to exercise control over
17 a peace officer's or other officer's firearm and the person knows or has
18 reason to know that the victim is a peace officer or other officer employed
19 by one of the agencies listed in paragraph 10, subdivision (a), item (i),
20 (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution
21 of any official duties.

22 7. If the person knowingly takes or attempts to exercise control over
23 any weapon other than a firearm that is being used by a peace officer or
24 other officer or that the officer is attempting to use, and the person knows
25 or has reason to know that the victim is a peace officer or other officer
26 employed by one of the agencies listed in paragraph 10, subdivision (a), item
27 (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the
28 execution of any official duties.

29 8. If the person knowingly takes or attempts to exercise control over
30 any implement that is being used by a peace officer or other officer or that
31 the officer is attempting to use, and the person knows or has reason to know
32 that the victim is a peace officer or other officer employed by one of the
33 agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv)
34 or (v) of this subsection and is engaged in the execution of any official
35 duties. For the purposes of this paragraph, "implement" means an object that
36 is designed for or that is capable of restraining or injuring an
37 individual. Implement does not include handcuffs.

38 9. If the person commits the assault knowing or having reason to know
39 **THAT** the victim is a teacher or other person employed by any school and the
40 teacher or other employee is upon the grounds of a school or grounds adjacent
41 to the school or is in any part of a building or vehicle used for school
42 purposes, any teacher or school nurse visiting a private home in the course
43 of the teacher's or nurse's professional duties or any teacher engaged in any
44 authorized and organized classroom activity held on other than school
45 grounds.

- 1 10. If the person meets both of the following conditions:
2 (a) Is imprisoned or otherwise subject to the custody of any of the
3 following:
4 (i) The state department of corrections.
5 (ii) The department of juvenile corrections.
6 (iii) A law enforcement agency.
7 (iv) A county or city jail or an adult or juvenile detention facility
8 of a city or county.
9 (v) Any other entity that is contracting with the state department of
10 corrections, the department of juvenile corrections, a law enforcement
11 agency, another state, any private correctional facility, a county, a city or
12 the federal bureau of prisons or other federal agency that has responsibility
13 for sentenced or unsentenced prisoners.
14 (b) Commits an assault knowing or having reason to know that the
15 victim is acting in an official capacity as an employee of any of the
16 entities prescribed by subdivision (a) of this paragraph.
17 11. If the person commits the assault while the victim is bound or
18 otherwise physically restrained or while the victim's capacity to resist is
19 substantially impaired.
20 12. If the person commits the assault knowing or having reason to know
21 that the victim is a fire fighter, fire investigator, fire inspector,
22 emergency medical technician or paramedic engaged in the execution of any
23 official duties, or a person summoned and directed by such individual while
24 engaged in the execution of any official duties.
25 13. If the person commits the assault knowing or having reason to know
26 that the victim is a licensed health care practitioner who is certified or
27 licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned
28 and directed by the licensed health care practitioner while engaged in the
29 person's professional duties. ~~The provisions of~~ This paragraph ~~do~~ DOES not
30 apply if the person who commits the assault is seriously mentally ill, as
31 defined in section 36-550, or is afflicted with Alzheimer's disease or
32 related dementia.
33 14. If the person commits assault by any means of force ~~which~~ THAT
34 causes temporary but substantial disfigurement, temporary but substantial
35 loss or impairment of any body organ or part or a fracture of any body part.
36 15. If the person commits assault as prescribed by section 13-1203,
37 subsection A, paragraph 1 or 3 and the person is in violation of an order of
38 protection issued against the person pursuant to section 13-3602 or 13-3624.
39 16. If the person commits the assault knowing or having reason to know
40 that the victim is a prosecutor.
41 17. IF THE PERSON COMMITS THE ASSAULT BY ENGAGING IN CONDUCT THAT
42 IMPEDES NORMAL BREATHING OR CIRCULATION OF THE BLOOD BY THE APPLICATION OF
43 PRESSURE ON ANOTHER PERSON'S THROAT OR NECK AND ANY OF THE CIRCUMSTANCES
44 PRESCRIBED IN SECTION 13-3601, SUBSECTION A, PARAGRAPHS 1 THROUGH 5 APPLY.
45 THIS PARAGRAPH DOES NOT APPLY IF THE PERSON WHO COMMITS THE ASSAULT IS A

1 PEACE OFFICER, CORRECTIONAL OFFICER OR DETENTION OFFICER WHO IS ENGAGED IN
2 THE EXECUTION OF ANY OFFICIAL DUTIES.

3 18. IF THE PERSON COMMITS THE ASSAULT BY ENGAGING IN CONDUCT THAT
4 IMPEDES NORMAL BREATHING BY THE BLOCKING OF THE NOSE OR MOUTH OF ANOTHER
5 PERSON BY ANY MEANS AND ANY OF THE CIRCUMSTANCES PRESCRIBED IN SECTION
6 13-3601, SUBSECTION A, PARAGRAPHS 1 THROUGH 5 APPLY. THIS PARAGRAPH DOES NOT
7 APPLY IF THE PERSON WHO COMMITS THE ASSAULT IS A PEACE OFFICER, CORRECTIONAL
8 OFFICER OR DETENTION OFFICER WHO IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL
9 DUTIES.

10 B. IF A PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH
11 17 OR 18 OF THIS SECTION AND THE COURT SENTENCES THE PERSON TO A TERM OF
12 PROBATION, THE COURT SHALL ORDER THAT AS AN INITIAL CONDITION OF PROBATION
13 THE PERSON SHALL BE IMPRISONED IN THE COUNTY JAIL FOR A PERIOD OF AT LEAST
14 THIRTY DAYS. THIS JAIL TERM SHALL NOT BE DEFERRED, DELETED OR OTHERWISE
15 SUSPENDED AND SHALL COMMENCE ON THE DATE OF SENTENCING. THIS SUBSECTION DOES
16 NOT APPLY TO A PERSON WHO IS SENTENCED TO SERVE A PERIOD OF INCARCERATION IN
17 THE STATE DEPARTMENT OF CORRECTIONS.

18 ~~B-~~ C. Except pursuant to subsections ~~C-~~ D, E and ~~D-~~ F of this
19 section: ~~—~~

20 1. Aggravated assault pursuant to subsection A, paragraph 1, ~~—~~ OR 2
21 ~~or 6~~ of this section is a class 3 felony, except if the victim is under
22 fifteen years of age ~~in which case~~ it is a class 2 felony punishable pursuant
23 to section 13-604.01.

24 2. AGGRAVATED ASSAULT PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS
25 SECTION IS A CLASS 3 FELONY.

26 3. Aggravated assault pursuant to subsection A, paragraph 14 of this
27 section is a class 4 felony.

28 4. Aggravated assault pursuant to subsection A, paragraph 7, ~~or~~ 10, 17
29 OR 18 of this section is a class 5 felony.

30 5. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 8,
31 9, 11, 12, 13, 15 or 16 of this section is a class 6 felony.

32 D. AGGRAVATED ASSAULT PURSUANT TO SUBSECTION A, PARAGRAPH 17 OR 18 OF
33 THIS SECTION COMMITTED ON A PERSON UNDER FIFTEEN YEARS OF AGE IS A CLASS 4
34 FELONY AND THE PERSON SHALL BE SENTENCED TO A PRESUMPTIVE TERM OF
35 IMPRISONMENT FOR TEN YEARS. THE PRESUMPTIVE TERM MAY BE INCREASED OR
36 DECREASED BY UP TO FIVE YEARS PURSUANT TO SECTION 13-702, SUBSECTIONS B, C
37 AND D. IF THE PERSON IS SENTENCED TO A TERM OF IMPRISONMENT THE PERSON IS
38 NOT ELIGIBLE FOR RELEASE FROM CONFINEMENT ON ANY BASIS, EXCEPT AS
39 SPECIFICALLY AUTHORIZED BY SECTION 31-233, SUBSECTION A OR B, UNTIL THE
40 PERSON HAS SERVED THE SENTENCE IMPOSED BY THE COURT, THE PERSON IS ELIGIBLE
41 FOR RELEASE PURSUANT TO SECTION 41-1604.07 OR THE SENTENCE IS COMMUTED.

42 ~~C-~~ E. Aggravated assault pursuant to subsection A, paragraph 1 or 2
43 of this section committed on a peace officer while the officer is engaged in
44 the execution of any official duties is a class 2 felony. Aggravated assault
45 pursuant to subsection A, paragraph 14 of this section committed on a peace

1 officer while the officer is engaged in the execution of any official duties
2 is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph
3 5 of this section resulting in any physical injury to a peace officer while
4 the officer is engaged in the execution of any official duties is a class 5
5 felony.

6 ~~D.~~ F. Aggravated assault pursuant to:

7 1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony
8 if committed on a prosecutor.

9 2. Subsection A, paragraph 14 of this section is a class 3 felony if
10 committed on a prosecutor.

11 3. Subsection A, paragraph 16 of this section is a class 5 felony if
12 the assault results in a physical injury to a prosecutor.

13 ~~E.~~ G. For the purposes of this section, "prosecutor" means a county
14 attorney, a municipal prosecutor or the attorney general and includes an
15 assistant or deputy county attorney, municipal prosecutor or attorney
16 general.